Supreme Court, U.S.
FILED
JUN 16 1995
CLERK

No. 94-1824

In The
SUPREME COURT OF THE UNITED STATES

October Term, 1994

WALTER A. CONNOR, JR.,
Petitioner,

vs.

WESTERN PENNSYLVANIA TEAMSTERS
AND EMPLOYERS PENSION FUND,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITIONER'S REPLY BRIEF

Walter A. Connor, Jr.
Respondent In Pro Per
Grubbs Road, P.O. Box 269
Gibsonia, Pennsylvania 15044
(412) 443-7348

June 15, 1995

BEST AVAILABLE COPY

TABLE OF CONTENTS

Page

REPLY 1

TABLE OF AUTHORITIES

UNITED STATES CODE:

	Page
26 U.S.C. 6331(a)	1
26 U.S.C. 6331(b)	5
26 U.S.C. 6331(e)	5
26 U.S.C. 6332(a)	3
26 U.S.C. 6332(d)	4
26 U.S.C. 6332(e)	4
26 U.S.C. 6502(b)	4,5

OTHER AUTHORITIES:

	Page
FEDERAL TAX LIEN ACT of 1966	1

REPLY

Albeit the Petitioner's Brief relied upon the FEDERAL TAX LIEN ACT OF 1966 which clearly evinces the intent of the United States Congress when passing this legislative tax act, the Respondent did not address or attempt to refute any of the principles of law contained therein.

Respondent's Brief at page 3 quotes Paragraph (a) of Internal Revenue Code Section 6331 albeit this paragraph deals with the effect of a levy upon the accrued salary or wages of any officer, employee, or elected official, of the United States, District of Columbia, etc., and is therefore not relevant to the instant case.

Respondent's Brief at page 6 states that the letter dated February 8, 1993 which accompanied the Form 668-W(c) "required" Respondent to send Petitioner's monthly benefit to the IRS until an "assessment" was satisfied, and that such action must commence on a specific date. All of which is totally untrue.

The verbatim text of the letter follows:

> To Whom It May Concern:
>
> The taxpayer identified in the enclosed notice of levy is not entitled to the exemption under section 6334(a)(9) of the Internal Revenue Code. Therefore, please disregard the instructions about the exemptions under that Code section on the back of Part 1 of the notice. Parts 4 and 5 of the notice have been removed and the Table for figuring the amount exempt from the levy is not enclosed.
>
> This levy attaches the taxpayer's take-home pay. Please attach Part 3 to the check you send us. There is no

> need for your employee to complete the statement of exemptions on Part 3.
>
> If you have any questions, please contact the person whose name and telephone number are shown above.

As shown, the letter doesn't "require" anything at all; nor does it mention any date or dollar amounts. Thus it is palpable that Respondent's intent in making these fraudulent allegations was to transfer responsibility for Respondent's folly to the letter writer, and to mislead the Court.

Respondent's Brief quotes Internal Revenue Code Sections 6331 and 6332. Respondent is seemingly unable to comprehend the significance of these words contained in Section 6332(a):

> Property subject to levy upon which a levy has been **MADE**. (Emphasis added).

If no levy has been **MADE** by the giving of a Notice of Seizure, Form 2433, as required by Internal Revenue Code Section 6502(b), Section 6332(d) does not compel compliance, and Section 6332(e) does not grant immunity nor indemnity.

Respondent knew or should have known that it has not been given a Notice of Seizure, Form 2433, and therefore, no levy has been made. Therefore, Respondent's actions are improper, illegal, and unconscionable, especially so because Respondent is Petitioner's fiduciary.

Respondent alleges and maintains that its actions are compelled by Form 668-W(c), i.e. that Form 668-W(c) constitutes a levy. Respondent's position conflicts with Internal Revenue Code Section 6502(b) which states that:

> The date on which a levy upon property or right to property is **MADE** shall be the date on which the notice of seizure provided in section 6335(a) is given. (Emphasis added).

Respondent's position also conflicts with Internal Revenue Code Section 6331(b) which states in its second sentence:

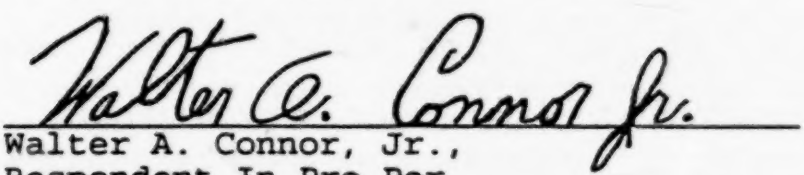
> Except as otherwise provided in subsection (e) a levy shall extend only to property possessed and obligations existing at the time thereof.

Section 6331(e) states that only a levy on salary or wages is continuous. Therefore, even if the Respondent's fallacious statements in re, the letter dated February 8, 1993, were true, and even if the Form 668-W(c) had been augmented or supplemented by a Notice of Seizure Form 2433, and thus a bona fide levy had been **MADE**, Respondent would not have had the right or option to delay the effect of such levy from the date of

receipt, March 3, 1993, until the first day of the following month, April, unless the property being levied were either salary or wages. Further, only salary and wages could be repeatedly affected by a single-one-time levy.

Thus it is clear that Respondent's actions resulted from Respondent's erroneous conclusions of law, seriatim, which have deprived Petitioner of his property as well as his constitutionally guaranteed right to due process of law.

Respectfully submitted,



Walter A. Connor, Jr.,
Respondent In Pro Per
Grubbs Road, P.O. Box 269
Gibsonia, Pennsylvania 15044
(412) 443-7348

June 15, 1995